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denial which is the essential element, and therefore it is immaterial by whom the statement is made. Undoubtedly, much may be said for this view. But from one point of view, at least, it appears rather extreme to require one to deny or answer every such statement, however impertinent, made by anyone in his presence, or run the risk of having an admission implied against him therefrom. It is believed that, under the common law rules of evidence, it is within the power of the court to determine, before allowing the question to go to the jury at all, whether the occasion and attendant circumstances are such as reasonably call for an answer from the party. This principle seems to be recognized, at least, in numerous cases. See *Vail v. Strong*, 10 Vt. 457; *Moore v. Smith*, 14 S. & R. 388; *Com. v. Kenney*, 12 Metc. 235. But perhaps this rule is altered by the provision cited above from the California Code.

INTOXICATING LIQUORS—TERMINATION OF WAR—WAR-TIME PROHIBITION ACT.—In an action in equity to enjoin defendant, Collector of Internal Revenue, from enforcing the pains, penalties, etc., of the War-time Prohibition Act, it was held that the act, passed under the war power of Congress, ceased to be constitutionally effective when the war terminated and demobilization was completed as a matter of fact, in consequence whereof the war power of Congress, under which alone legislation in derogation of the constitutional rights of the states can be enacted or enforced, likewise ceased. *Simon v. Moore* (Mo. D. C., E. D., 1919), 261 Fed. 638.

The Supreme Court passed upon this same question ten days later, in *Hamilton v. Ky. Distilleries and Warehouse Co.*, S. C. Cas. No. 589, Oct. Term, 1919, and in *Dryfoos et al. v. Edwards*, S. C. Cas. No. 602, Oct. Term, 1919. The Missouri District Court based its decision upon the finding that the war has been terminated and demobilization completed, and determine *a priori* that the Act has become invalid. The Supreme Court says: "The implied power to enact such a prohibition must depend upon some actual emergency or necessity arising out of the war or incident to it; still, the power is not limited to victories in the field and the dispersion of the (insurgent) forces. It carries with it inherently the power to guard against the immediate renewal of the conflict and to remedy the evils which have arisen from its rise and progress." This court points out that the treaty of peace has not yet been concluded, that the railways and other industries are still under national control by virtue of the war powers, that demobilization is not complete, and that the act in question was not passed until one month after the Armistice had been signed. Concluding, it states that it would require a clear case to justify a court in declaring that such an act, passed for such a purpose, had ceased to have force because the power of Congress no longer continued. Beyond a doubt, the Missouri District Court was influenced by the tremendous value of property which faced practical outlawry. But the Supreme Court, through its exhaustive interpretation of indicative facts, and upon sound principles of statutory construction, sustained the validity of the act, and demonstrated fully, although leaving the point to implication, that the remedy must lie with Congress and not with the courts.